

Case 4:01-cv-03624 Document 4474 Filed 02/10/2006 Page 1 of 7

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

**In re ENRON CORPORATION SECURITIES
LITIGATION**

§ MDL Docket No. 1446
§
§ Civil Action No. H-01-3624
§ **(Consolidated)**
§
§ **CLASS ACTION**

This Document Relates To:

MARK NEWBY, et al., Individually and On
Behalf of All Others Similarly Situated,

Plaintiffs,

vs.

ENRON CORP., et al.,

Defendants.

THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA, et al., Individually and On Behalf
of All Others Similarly Situated,

Plaintiffs,

vs.

KENNETH L. LAY, et al.,

Defendants.

[Caption continued on next page]

ORDER REGARDING EXPERT DOCUMENT DISCOVERY

Case 4:01-cv-03624 Document 4474 Filed 02/10/2006 Page 2 of 7

PAMELA M. TITTLE, *et al.*, § Civil Action No. H-01-3913
Plaintiffs, §
vs. §
ENRON CORP., *et al.*, §
Defendants. §

OFFICIAL COMMITTEE OF UNSECURED § Civil Action No. H-04-0091
CREDITORS OF ENRON CORP., §
Plaintiff, §
vs. §
ANDREW S. FASTOW, MICHAEL J. KOPPER, §
BEN GLISAN, JR., RICHARD B. BUY, §
RICHARD A. CAUSEY, JEFFREY K. §
SKILLING, KENNETH L. LAY, JEFFREY §
McMAHON, JAMES V. DERRICK, JR., §
KRISTINA M. MORDAUNT, KATHY LYNN, §
ANNE YAEGER-PATEL, ARTHUR §
ANDERSEN, LLP, AND CARL FASTOW, AS §
ADMINISTRATOR OF THE FASTOW FAMILY §
FOUNDATION, §
Defendants. §

[Caption continued on next page]

Case 4:01-cv-03624 Document 4474 Filed 02/10/2006 Page 3 of 7

ELAINE L. CHAO, SECRETARY OF THE
UNITED STATES DEPARTMENT OF LABOR, § Civil Action No. H-03-2257
§ (Consolidated with H-01-3913)

Plaintiff,

v/s.

ENRON CORP., et al.

Defendants.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re

ENRON CORP., et al.,

Debtors.

x
Chapter 11
No. 01-16034(AJG)

Jointly Administered

ENRON CORP., et al.,

Plaintiffs,

v.

CITIGROUP INC., et al.,

Defendants.

x
Adversary Proceeding
No. 03-09266 (AJG)

PUBLIC EMPLOYEES' RETIREMENT
SYSTEM OF OHIO, et al.,

Plaintiffs,

v.

ANDREW S. FASTOW, et al.,

Defendants.

x
Civil Action No. H-02-4788
(Coordinated)

1. This Order applies to any action that is governed by the Deposition Protocol Order in the coordinated and consolidated *Newby* and *Title* litigations, including but not limited to the bankruptcy adversary proceeding in the United States Bankruptcy Court for the Southern District of New York captioned *Enron Corp., et al. v. Citigroup, Inc., et al.*, Adv. Proc. No. 03-09266 (AJG) (the "Actions") and to any person or entity who is a party to any Action (individually, a "Party," and collectively the "Parties").

2. The purpose of this Order is to modify the provisions of Fed. R. Civ. P. 26(a)(2)(B) with respect to required disclosures concerning testifying experts and to limit the scope of documents concerning such experts that will be subject to discovery in the Actions.

3. With respect to any person or entity who a Party will or may call as a witness at trial in any Action to present evidence under Rules 702, 703 or 705 of the Federal Rules of Evidence (an "Expert"), the Party shall produce in electronic format to the Enron Document Depository and post to the FTP site¹ established in accordance with the Amended Deposition Protocol Order Pursuant to Order Entered December 13, 2004 the following documents: (a) a complete statement of all opinions to be expressed by the Expert and the basis and reasons therefore (the "Expert Report"); (b) all data and other information on which the Expert relied in forming the opinions reflected in the Expert Report²; (c) any exhibits to be used as a summary of

¹ <ftp://ftp.esl3624.com>. This is a secure file transfer site limited to parties in the Enron-Related Matters. Those without current access to the site should contact Jerri Hardaway at Lerach Coughlin (JerriH@lerachlaw.com) for a user name and password.

² With the following exceptions: (i) data sets too voluminous for posting to the FTP should be distributed in electronic form through alternative methods; (ii) documents previously filed in *Newby* or *Title* need not be posted, but may be identified by docket number and date filed; (iii) documents served via the ESL3624.com website need not be posted, but may be identified by document title and date filed; (iv) transcripts of depositions taken in *Newby*, *Title* and those actions consolidated or coordinated with *Newby* or *Title* may be identified by name of deponent and date of deposition and need not be posted. Exhibits from depositions taken in *Newby*, *Title*

or support for the opinions reflected in the Expert Report (to the extent such exhibits exist at the time the Expert Report is produced); (d) a complete statement of the qualifications of the Expert, including a list of all publications authored by the Expert within the preceding ten years; (e) a complete statement of the compensation paid or to be paid to the Expert by the Party sponsoring that Expert in connection with his/her work in this matter and all invoices or other similar statements rendered by the Expert in connection therewith; and (f) a listing of any other cases in litigation, or any administrative proceeding, in which the Expert has served an Expert Report, or has testified as an expert at trial or by deposition, within the preceding four years. Each party shall also post a notice to the esl3624.com website of such production but **IN NO EVENT SHOULD ANY PART OF THE EXPERT REPORT OR DOCUMENTS REFERENCED IN (B-F) ABOVE BE POSTED TO THE ESL3624.COM WEBSITE CREATED FOR SERVICE OF DOCUMENTS. ANY EXPERT MATERIALS POSTED TO THE ESL3624.COM WEBSITE WILL BE REMOVED FROM THE WEBSITE BY THE WEBSITE ADMINISTRATOR, WITH NOTICE PROVIDED TO THE POSTER THAT THE DATA HAS BEEN REMOVED.**

4. Notwithstanding anything to the contrary in Fed. R. Civ. P. 26(a)(2)(B) or case law, no documents concerning Experts other than those described above in paragraph 3 shall be subject to discovery in the Actions, including but not limited to drafts of Expert Reports and documents constituting or reflecting communications between an Expert and counsel to a Party.

and those actions consolidated or coordinated with *Newby* or *Title* may be identified by Exhibit number and need not be posted; (v) documents that have been designated as Core Documents may be identified by Core Document number; (vi) cases, statutes, treatises and similarly publicly available literature need not be produced, but only identified in "Bluebook-style" citation form. The Core Documents are already posted on the FTP site. All other documents produced pursuant to Paragraph 3(b), including those bearing no identifying marks and those bearing Bates numbers, whether or not previously produced shall be posted to the FTP site in .pdf format as soon as is technically possible after the posting of the Expert Report and a notice shall be posted to the esl3624.com website when such production is complete.

5. All of the documents required to be produced pursuant to paragraph 3 above shall be produced by the Party to the Enron Document Depository and to the FTP site at the same time that the Party produces the Expert Report except that, as provided in footnote 2 above, documents produced pursuant to paragraph 3(b) shall be produced as soon as is technically possible after the Expert Report is produced.

IT IS SO ORDERED this 2nd day of March, 2006

s/Melinda Harmon
MELINDA HARMON
UNITED STATES DISTRICT JUDGE

IT IS SO ORDERED this 2nd day of March, 2006

s/Arthur J. Gonzalez
ARTHUR J. GONZALEZ
UNITED STATES BANKRUPTCY JUDGE

Case 4:01-cv-03624 Document 4474 Filed 02/10/2006 Page 7 of 7

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing ORDER REGARDING EXPERT DOCUMENT DISCOVERY document has been served by posting a copy www.ESL3624.com on February 10, 2006.

I further certify that a copy of the foregoing document has been served via overnight mail on the following parties, who do not accept service by electronic mail on February 10, 2006.

Carolyn S. Schwartz
United States Trustee, Region 2
33 Whitehall Street, 21st Floor
New York, NY 10004

Tom P. Allen
McDaniel & Allen
1001 McKinney St., 21st Fl
Houston, TX 77002

Mo Maloney

Mo Maloney